

MEMORANDUM

Department of Planning & Neighborhood Services



To: Honorable Mayor and City Council
From: Tom Williams, Planning & Neighborhood Services Director
Subject: Background Report on Piercey Toyota: UP2006-1 and SZ2006-1
Date: March 10, 2006

PROPOSAL

Piercey Automotive Group requests approval of Use Permit No. UP2006-1 and S-Zone No. SZ2006-1 for a 10 acre auto dealership with a 70,000 square foot showroom, offices and 52-bay service area.

BACKGROUND

Project Area

- 10 acres located at the northeast quadrant of Great Mall Drive and Interstate 880.
- The site is a portion of the 82-acre parcel that contains the Elmwood Correctional Facility, owned and operated by Santa Clara County.
- Bordered by vacant land on the north, designated wetlands area and Great Mall Drive on the south and the future alignment of Thompson Street and the Elmwood Jail Facility to the east and I-880 to the west.
- The site is located in the Midtown planning area and in Redevelopment Area Amendment No. 1.

Land Use History

- 1957 - 1982 – Planned for residential uses.
- August 1982 – 1,000-foot wide agricultural greenbelt designated around Elmwood facility, limiting land uses to agricultural.
- December 1988 – Agricultural greenbelt deleted. Land use designation changed to Highway Service.
- March 2002 - Midtown Specific Plan was adopted. Land use designation changed from Highway Service to General Commercial.
- November 2004 - Tentative Map approved by Planning Commission. Created three commercial lots between I-880 and Elmwood facility
- January 2005 – Environmental Impact Report (EA2003-7) approved for 59 acres, which included auto dealership proposal on subject site.
- August 2005 – City Council was introduced to conceptual plans for Piercey Toyota.

APPLICATIONS SUBMITTED

- Use Permit No. UP2006-1, pursuant to Section 19 of the Zoning Ordinance for Auto sales (19.03-6) and related Auto repairs (19.03-3) and for deviations from the Midtown Specific Plan design standards (p. 8-5).
- S-Zone No. SZ2006-1, pursuant to Section 42 (Site and Architecture Review) of the zoning ordinance, for a 10 acre auto dealership with a 70,000 square foot showroom, offices and service area.

PROJECT DESCRIPTION

- 70,000± square foot single story structure with a drive through service area and mezzanine level for parts storage. The building provides an auto showroom, offices and a 52-bay auto service facility.

Site Layout and Access

- Outdoor new vehicle display will be on the west side of the parcel for visibility from I-880.
- Sales activities will be primarily on the northern portion of the site; service work will be on the southern end.
- A new north/south road, Thompson Street and utilities, will be completed by others adjacent to the east side of the site.
- Thompson Street will provide two access points to the site: One driveway will occur at the midway point of the lot on Thompson Street and provide access directly to the auto service facility. The other driveway will be located at the north end of the Thompson Street frontage, primarily for customer sales use.
- The project will be accessible for pedestrians via a ten-foot sidewalk on the west side of Thompson Street and ADA pavement markings at the northern entrance.

Building Architecture, Colors, and Materials

- Clean contemporary design with a service drive separating the service facility from the showroom and sales facility. A mezzanine, used for storage, will connect the two structures and provide coverage for the service drive.
- Due to flood control requirements, the building will be elevated approximately three feet on protected earthwork.
- Main building entrances face west for freeway exposure.
- Showroom entrance has an exterior portico.
- Concrete tilt up construction with flat roof and parapet.
- Off white color with painted red accent.
- Exterior materials include clad metal, stucco façade, and scored concrete block.
- All Zoning Ordinance standards are met as indicated in Table 1:

Table 1 – Zoning Ordinance Requirements

<i>C2 Requirements¹</i>	<i>Proposed Plans</i>
Building height – no limit	Primarily 24 feet Showroom exterior up to 34 feet
Front yard setback – none	41 ± feet
Side and rear yard setback – none	72 to 230 feet
Floor area ration – 0.5 or 50%	17%

Parking

- 806 parking spaces are provided on the site. More than half of those spaces will be used for inventory display as indicated in Table 2.

Table 2 – Proposed Parking

<i>Use</i>	<i>Spaces Provided</i>	<i>Percent of Total</i>
Sales	94	12%
Service	162	20%
Employee	99	12%
Display and Inventory	451	56%
Total	806	100%

- The proposal will have parking in excess of Ordinance requirements based on a parking study completed by staff. Since the Zoning Ordinance does not provide a parking standard for auto dealerships, the study interprets the ordinance based on local and national standards for similar uses. The parking requirements are outlined in Table 3.

Table 3 – Parking Requirements

<i>Use</i>	<i>Intensity</i>	<i>Requirement</i>	<i>Parking Spaces Required</i>
Offices	2271 sq. ft.	1/200 sq. ft.	12
Service Bays	52 bays	3/service bay	156
Showroom	11,500 sq. ft.	1/200 sq. ft.	58
Storage	108,202 sq. ft.	1/1,500 sq. ft.	72
Total Required Parking			298

¹ Milpitas Municipal Code, XI-10-19.01

Landscaping

- Uses a variety of groundcovers and shrubs throughout the site. The freeway frontage will use ornamental grasses for a bioswale.
- Four palm trees at southern entrance. Deciduous trees throughout site (Flowering Pear, Purple Robe Locust and Arbutus).
- Three concrete car display areas in landscape areas at entrances off Thompson Street and along freeway frontage.

Lighting

- Significant lighting throughout the site as commonly required by auto dealerships to maintain economic viability by increasing the visibility of their site, buildings and inventory.
- Provided primarily through 24-foot high lighting standards in all parking areas. The light fixture is a compact rectangular shape with a decorative reveal.

Signs

Table 4 – Building Signs

<i>Sign</i>	<i>West Elevation</i>	<i>East Elevation</i>
Toyota & logo	180 sq. ft., illuminated channel letters, red color	96 sq. ft., illuminated channel letters, red color
Dealer Name	28 sq. ft., illuminated channel letters, black color	16 sq. ft., illuminated channel letters, black color
“Scion” Brand Name	32 sq. ft., aluminum letters, backlit	None

- Total building sign square footage: 352
- Freestanding signs and driveway entry signs are not a part of the proposed project and will be subject to separate City review.

CONFORMANCE

General Plan

The proposed project is consistent with the General Commercial designation of the General Plan, which encourages a wide range of retail sales and the following sections of the General Plan:

Table 5 – General Plan Conformance

<i>Policy</i>	<i>Applicability</i>
2.a-I-2 Promotes in-fill development in the incorporated city limits.	The project is an in-fill project involving a vacant site in the Midtown area.

2.a-I-3 Encourages economic pursuits, which will strengthen and promote development through stability and balance.	The project takes advantage of an ideal site for an auto dealership with major freeway visibility
2.a-I-6 Encourages a balanced economic base.	The project will add a type of commercial activity to the city this is not currently available.

Midtown Specific Plan

The Midtown Specific Plan provides design guidelines for the entire Midtown area. The guidelines do not address the unique nature and needs of an auto dealership site. Nevertheless, many design features recommended in the Plan are found in the proposed project as summarized below.

Table 6 – Midtown Conformance

<i>Midtown Guidelines</i>	<i>Proposed Plans</i>
Buildings be designed to accommodate pedestrian and bicycle traffic	A ten-foot public sidewalk extends the length of the street frontage of the site. Pedestrian and disabled pathways will be noted with ADA markings on the pavement and bicycle parking will be provided.
Buildings to have articulated entries and facades	The project provides a large open portico at the showroom entrance and a variety of materials are used on the building exterior (i.e., metal, stucco and scored cement block).

When a project deviates from the design guidelines of the Midtown Specific Plan, the decision makers must make findings that the exceptions do not detract from the design integrity of the project and there is a public benefit by making the exceptions. In the case of the proposed project, the exceptions are vital and actually enhance the economic viability of the auto dealership. The public benefits of the project are many and include a more diverse economic base for the community, a convenient service for local residents and a resource for city services.

Project variations from the design guidelines of the Midtown Specific Plan are summarized below:

Table 7 – Midtown Deviations

<i>Midtown Guidelines</i>	<i>Proposed Plans</i>
<ul style="list-style-type: none"> ▪ Limited visibility of parking areas ▪ Requirement for number of trees per parking stalls ▪ Building entries should face the street 	<ul style="list-style-type: none"> ▪ Auto dealerships must maximize the visibility of their display area and inventory capability.

¹ Midtown Specific Plan, p. 8-32

▪ Landscaping contained in six-inch curbs	▪ Landscaping cannot be contained by curbing due to design constraints for flooding potential.
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Zoning Ordinance

The proposed project is consistent with the Zoning Ordinance as indicated below.

<i>Ordinance Provisions</i>	<i>Applicability</i>
"C2" General Commercial zoning district	The project is a retail use and complies with the C2 development standards as indicated in Table 1.
"S" Zone combining district "Ensures orderly, attractive and harmonious development; recognize environmental limitations on development"	The project is a proportionate size compared to nearby buildings (i.e., Elmwood and the Great Mall) and is designed to address the environmental limitations of the site.
Section 53 Parking Regulations	The project complies with the parking regulations contained in Section 53 as outlined in Table 2.

ENVIRONMENTAL REVIEW

The environmental analysis for this project was incorporated into the Environmental Impact Report (EIR) for the Elmwood Residential and Commercial Development Project (SCH No. 2003112102). The Final EIR was approved by the Planning Commission and City Council in November 2004 and January 2005, respectively. No further environmental analysis is required under State law.

RECOMMENDATION

Close the Public Hearing. The Planning Commission reviewed these applications at their February 8, 2006 meeting and recommended approval to the City Council and Redevelopment Agency of Use Permit No. UP2006-1 and S-Zone Approval No. SZ2006-1 based on the Findings and Special Conditions of Approval listed below:

FINDINGS

1. The Environmental Impact Report for the Elmwood Residential and Commercial Development Project (SCH No. 2003112102) is valid and applicable to this project. (EIR)

Findings for Use Permit and "S" Zone Approvals

2. The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare because of

appropriate design and control measures and the incorporation of special conditions of approval.

3. The proposed use is consistent with the Milpitas General Plan because it is a commercial use in a General Commercial land use designation, it is an infill project in the Midtown area, and it will strengthen the economic base of the community.
4. The proposed use is consistent with the Milpitas Zoning Ordinance because it is a retail use and complies with the "C2" development standards.
5. The deviation from the design guidelines of the Midtown Specific Plan meets the overall design intent within the Midtown Specific Plan and does not detract from the overall architectural, landscaping, and site planning integrity of the proposed development. Auto dealerships must maximize the visibility of their display area and inventory capability and landscaping cannot be contained by curbing due to design constraints for flooding potential.
6. The deviation from the design guidelines of the Midtown Specific Plan allows for public benefits, such as a more diverse economic base for the community, a convenient service for local residents and a resource for city services, not otherwise obtainable through the strict application of the guidelines.
7. As conditioned, the layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development because it is a proportionate size compared to nearby buildings (i.e., Elmwood and the Great Mall) and is designed to address the environmental limitations of the site.
8. The project is consistent with the Midtown Specific Plan because the building design provides a large open portico at the showroom entrance and a variety of materials are used on the building exterior.

SPECIAL CONDITIONS FROM PLANNING DIVISION

1. **Permit Scope:** "S" Zone Approval (SA2006-1) and Use Permit (UP2006-1) is for an auto dealership with showroom and service center on a ten acre site at 950 Thompson Ct. as shown on approved plans, except as may be otherwise modified by these conditions of approval. The "S" Zone approval includes five building wall signs. Minor changes to the approved plans, as per Section 42-10-2 of the Milpitas Zoning Ordinance, may be approved by the Planning Commission Subcommittee or Planning Division staff. Major changes to the orientation and size of the proposed buildings to comply with the floodplain study will be subject to approval of the Planning Commission and Redevelopment Agency.(P)
2. **Mitigation Measures:** The project shall comply with all mitigation measures as contained in the mitigation monitoring program for the Elmwood Residential and Commercial Project. (P)
3. **Compliance:** These uses shall be conducted in compliance with all appropriate local, state and federal laws and regulations. (P)
4. **Auto Sales Guidelines:** City Council Resolution No. 5626, providing guidelines for auto sales facilities, must be complied with.(P)
5. **Signs:** Total signage allowed for the site is 1,728 square feet. A Sign Program for the site must be completed with the approval of freestanding signs per Municipal Code XI-30-4.04. (P)

6. **Landscaping:** All required landscaping shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. Proper maintenance of landscaping requires minimal pesticide use and shall be the responsibility of property owner in perpetuity. The pest reducing landscape maintenance techniques listed in the "Fact Sheet on Landscape Maintenance Techniques for Pest Reduction" in the City of Milpitas *Stormwater C.3 Guidebook*, are incorporated by reference into this condition. (P, C.3 Standard Condition No. 7)
7. **Landscaping:** City Planning staff shall have approval authority for the installation of comparable substitute pest-resistant plant materials to satisfy the requirements of the approved landscape plan when the approved plants and materials are unavailable for installation, or when other unforeseen conditions prevent the exact implementation of the landscape plan. (P, C.3 Standard Condition No.6)
8. **Landscaping:** All landscaped planters adjacent to vehicle parking areas or travel lanes shall be either (a) contained by a full depth concrete curb (six inches above asphalt to bottom of structural section of adjacent paving) or (b) protected by a concrete or equivalent tire bumper. Where landscape planters abut a public street, a 24-inch deep-water barrier shall be installed behind the curb. The City Engineer prior to construction shall approve plans indicating the curb elevations along public streets. (P)
9. **Landscaping:** Prior to issuance of building permit, plans shall show that all planter areas have an automatic, self-watering system installed. All planter areas shall be serviced by a sprinkler head or drip system *equipped with a moisture sensor*. (P) (Italics were added by Planning Commission on February 8, 2006)
10. **Landscaping:** Prior to issuance of an occupancy permit, the required landscaping shall be planted and in place. (P, C.3 Standard Condition No. 4)
11. **Lighting:** No low-pressure sodium lighting shall be used anywhere in the project. (P)
12. **Screening:** All roof top equipment shall be shielded from view in a manner to the approval of the Planning Commission, or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or a line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)
13. **Screening:** On-site utility transformers, boxes, etc. shall be placed underground (subsurface vaults) or be located at the rear of the property and screened from public view in a manner to the approval of the Planning Division.
14. **Stormwater:** Prior to building permit issuance, permit plans shall incorporate the following BMP'S for post construction storm water impacts: (P)
 - a. Labeling and maintenance (annual inspections) of storm drain facilities;
 - b. Storm drain inlet cleaning on an annual basis;
 - c. Street sweeping.

- 15. Roof Downspouts:** Building permit plans shall show roof downspouts draining to landscape areas to the greatest extent possible. (P)
- 16. Vector Control:** Prior to any construction or grading of the site, a vector control plan shall be submitted to and approved by the City. (P)
- 17. MM – Air Quality:** Prior to building permit issuance, permit plans shall implement the following Best Management Practices (BMP's) at all project construction sites: (P, MM AQ-1)
- a. Water all active construction areas;
 - b. Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard;
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking and staging areas;
 - d. Sweep daily;
 - e. Hydro seed or apply non-toxic soil stabilizers to inactive construction areas;
 - f. Enclose, water or apply non-toxic soil binders to exposed stockpiles;
 - g. Limit traffic speeds on unpaved roads to 15 miles per hour;
 - h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - i. Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.
- 18. MM – Air Quality:** Prior to any permit issuance, incorporate into building plans appropriate Bay Area Air Quality Management District (BAAMQD) Best Management Practices (BMP's) to reduce vehicle trips as identified in the Summary of Impacts and Mitigation Measures (Section 1.2 of the DEIR and FEIR, Subsection "Air Quality", MM "Regional Development Impacts" for commercial development). Possible measures are (P, MM AQ-2):
- a. Provide physical improvements such as sidewalks, landscaping and bicycle parking that will act as incentives for pedestrian and bicycle modes of travel;
 - b. Connect the site with regional bikeway and pedestrian trail systems;
 - c. Provide a transit information kiosk;
 - d. Provide showers and lockers for employees bicycling or walking to work;
 - e. Provide secure and conveniently located bicycle parking and storage for workers and patrons;
 - f. Provide electric vehicle charging facilities;
 - g. Provide preferential parking for Low Emission Vehicles;
 - h. Use specialty equipment (utility carts, forklifts, etc.) that are electrically, CNG or propane powered;

- i. Use reflective (or high albedo) and emissive roofs and light colored construction materials to increase the reflectivity of roads, driveways, and other paved surfaces, and include shade trees near buildings to directly shield them from the sun's rays and reduce local air temperature and cooling energy demand.
- 19. MM – Construction Noise:** During construction, the applicant shall implement the following measures to reduce construction noise: (P, MM NOI-5)
- a. Construction shall be limited to the hours of 7:00AM to 7:00PM on weekdays, and 9:00AM to 5:00PM on Saturdays, with no noise generating construction on Sundays and holidays.
 - b. Equip all internal combustion engine-driven equipment with mufflers that are in good condition and appropriate for the equipment.
 - c. Utilize quiet models of air compressors and other stationary noise sources where the technology exists.
 - d. Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
 - e. Prohibit unnecessary idling of internal combustion engines.
 - f. Prior to issuance of a building permit, designate a noise disturbance coordinator who will be responsible for responding to any local complaints about construction noise. During construction, the coordinator will determine the cause of the noise complaints and institute reasonable measures to correct the problem. Maintain during all construction a conspicuously posted telephone number for the public to call the coordinator at the construction site.
 - g. coordinator at the construction site.
- 20. MM – Biology:** Appropriately timed surveys shall be conducted by a qualified botanist according to protocols acceptable to the U.S. Fish and Wildlife Service and the California Department of Fish and Game (CDFG), to determine the presence and/or absence of special status plant species. If presence is detected, notification and appropriate protocols for relocation and/or mitigation and monitoring plan, to the approval of the City, for the plant species shall be prepared for long-term protection. The plan shall be implemented either before or concurrently with ground disturbing activities on the property. (P, MM BIO-1)
- 21. MM – Biology and Hydrology:** The applicant shall modify the existing Stormwater Pollution Protection Plan (SWPPP). This plan shall include provisions to minimize on-site and off-site impacts to biological resources and water quality resulting from project related runoff. Measures shall include the following: (P, MM BIO-2 and HYD-11)
- a. The use of silt fencing, fiber rolls, sediment basins, and other measures to reduce the movement of construction-related sediments into Penitencia Creek and other sensitive habitats.
 - b. Installation of grit and oil trap systems which shall be maintained in perpetuity.
 - c. Implementation of BMP's to prevent the discharge of construction debris and soils into Penitencia Creek during site clearing, grading and construction.

- d. As required, dewatering the section of creek channel surrounding the work areas associated with outfall and bridge construction. The dewatering structure shall be to the approval of the City.
 - e. The applicant shall retain a construction manager familiar with NPDES permit requirements to monitor construction activities.
- 22. MM – Biology:** Tree and shrub removal shall not take place between February 15 and August 1 or as determined by the CDFG on a case-by-case basis to ensure no raptor nest establishment occurs in trees and shrubs scheduled for removal. If trees or shrubs are proposed to be removed during February 15 and August 1, the applicant shall comply with all City and CDFG requirements for vegetation removal. (P, MM BIO-3)
- 23. MM – Biology:** Prior to any discing for fire or weed control, a burrowing owl nesting and occupancy survey shall be completed on the property. Surveys shall be completed in compliance with all CDFG requirements. (P, MM BIO-4)
- 24. MM – Biology:** An approved CDFG Mitigation Agreement shall be complied with by the applicant and shall comply with the protocols contained in the agreement, including but not limited to surveys, passive relocation of the owls, hand-tool burrow removal, and purchase of off-site land for purposes of suitable owl habitat in perpetuity. (P, MM BIO-5)
- 25. MM – Biology:** Pre-construction surveys for burrowing owls shall occur no more than 30-days prior to any ground disturbance activities on the site. If owls are discovered, the applicant may use passive relocation prior to February 1, if discovered after February 1, the owls must be left on-site and a 250-foot buffer shall be established and maintained until September 1. (P, MM BIO-5)
- 26. MM – Geology:** Prior to approval of the final map or issuance of grading plans, the applicant shall submit a final geology and soils report addressing seismic ground shaking, liquefaction and other geologic soils seismic issues to the approval of the City. Development of the project shall be in conformance with approved final geology and soils report. (P, MM GEO-1)
- 27. MM – Hydrology:** Prior to building permit issuance, the design of storm water collection and conveyance systems shall minimize erosion and other potential problems for on-site and adjacent properties. (P, MM HYD-7)
- 28. MM – Hydrology:** Permit plans shall incorporate minimization of on-site areas of impervious surfaces where possible to reduce runoff. (P, MM HYD-8)
- 29. MM – Hydrology:** The BMP's of the stormwater control plan shall include the provision of storm drain system signs or stenciling with language to discourage illegal dumping of unwanted material into the catch basins and field inlets. (P, MM HYD-9)
- 30. MM – Hydrology:** Prior to building permit issuance, proof shall be submitted to the City that project Code Covenants and Restrictions (CC&R's) include provisions for BMP in regards to water quality, including illegal dumping of waste products, measure to reduce discharge, and educational material. (P, MM HYD-12)
- 31. MM – Cultural Resources:** All ground disturbing activities shall be monitored by a qualified archaeologist to ensure that any discovery of significant archaeological materials and/or human remains is handled in accordance with approved guidelines. (P, MM CUL-1)

- 32. Private Job Account:** If at the time of application for building permit or certificate of occupancy, there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full.

SPECIAL CONDITIONS FROM ENGINEERING DEPARTMENT

- 33. Utilities:** The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
- 34. Utilities:** Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
- 35. Flood:** At the time of building permit plan check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. In addition the proposed development is within the existing floodplains, and therefore it should not increase the 100-year water surface elevation on surrounding properties nor should it increase existing flooding. The design of this project shall comply with the floodplain study prepared by Schaff & Wheeler dated November 17, 2005. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to building permit issuance, including necessary changes to the orientation and size of the proposed buildings. (E)
- 36. Wetlands:** Prior to building permit issuance, the developer shall comply with California Regional Water Quality Control Board order R2-2006-0006 requirements for the Elmwood Commercial Development Project relating to Wetland Fill. Developer shall comply with all conditions and requirements of this order, including but not limited to the followings: (E)
- a. A detailed mitigation construction design and monitoring plan for mitigating the impact of wetland fill (Mitigation Plan) shall be submitted for approval by the RWQCB Executive Officer no later than June 1, 2006.
 - b. Mitigation construction shall be completed no later than October 31, 2006, according to the approved Mitigation Plan.
 - c. As-built plans for the mitigation site shall be prepared as per approved Mitigation Plan, and submitted to the RWQCB within 12 weeks of the completion of mitigation site construction.
 - d. Any changes to the approved Mitigation Plan must be approved in writing by the RWQCB Executive Officer.

- e. Annual monitoring reports shall be submitted to the RWQCB by December 31 of each monitoring year for at least 5 years.
- f. The Discharger shall maintain a copy of this order at the project site so as to be available at all times to site operating personnel and agencies.

Copies of all correspondences, permits and approvals with/from RWQCB shall be submitted to the City of Milpitas Engineering Division.

- 37. Wetlands:** Prior to start of any work on the construction of the wetlands mitigation site, developer shall submit plan and obtain necessary approval and permits for the proposed work on the Elwood site from Santa Clara County. Copy of the approval, permit or agreement for the proposed work shall be submitted to the City of Milpitas Engineering Division. (E)
- 38. Stormwater:** The developer shall comply with Regional Water Quality Control Board's C.3 requirements and implement the following: (E, C.3 Standard Condition Nos. 1, 2 and 8)
- a. At the time of building permit plan check submittal, the developer shall submit a "final" Stormwater Control Plan and Report. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
 - b. Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C.3 treatment facilities.
 - c. Prior to Final occupancy, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
- 39. Flood:** The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in a Special Flood Hazard Zone **AO**. Therefore, floodproofing is required. Floodproofing can be accomplished either by elevating or floodproofing of the structure and onsite utilities and equipment. Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finished floor) of each structure shall be at least one foot above the BFE, and the pad elevation shall be at or above the BFE, or the structure be floodproofed to least one foot above the BFE so that the walls are watertight. The structure pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion (currently, 95% relative density by the Standard Proctor test procedure, ASTM D-698). In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour. All electrical equipment, mechanical equipment, and utility type equipment proposed to be installed outside of the structure shall be located above the BFE, or shall be floodproofed, and shall be constructed to prevent damage from flooding events. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Ordinance. The applicant's civil engineer shall complete and submit a FEMA Elevation Certificate to the City prior to final building inspection. The Elevation Certificate shall certify the "as built" lowest floor elevation. Elevation Certificate forms are available from the Engineering Division. Flood insurance is required for any construction that is financed with government backed loans. Per Shaff and Wheeler study dated November 17, 2005 the BFE for the commercial site is set at 22.6 feet

NGVD, and therefore the lowest building Finish Floor elevation should be at 23.60 feet NGVD or higher. (E)

40. **Construction:** Prior to start of any construction, the developer shall submit a construction schedule and monitoring plan for City Engineer review and approval. The construction schedule and monitoring plan shall include, but not be limited to, construction staging area, parking for construction workers, personal parking, temporary construction fencing, construction information signage. The developer shall coordinate their construction activities with other activities in the vicinity of this project. The developer's contractor is also required to submit updated monthly construction schedules to the City Engineer for the purpose of monitoring construction activities and work progress. (E)
41. **Public Improvements:** Prior any building permit issuance, the developer shall obtain design approval for all necessary public improvements including but not limited to a new fire hydrant on Thompson Street, relocation of the conflicting utilities, and storm drain, sewer and water service connection, as shown on the Engineering Services Exhibit "S" dated January 31, 2006. Construction of the proposed improvements shall be completed to the satisfaction of the City engineer and prior to building occupancy permit issuance. (E)
42. **Public Improvements:** Prior to any building occupancy/final inspection permit issuance, all necessary off-site public improvements shall be completed to the satisfaction of the City Engineer, including but not limited to the following: (E)
 - a. Thompson Street improvements, including but not limited to, utilities, signage and striping, streetscape, streetlight and sidewalk installation.
 - b. Machado Avenue improvements, including but not limited to, utilities, signage and striping, streetscape, streetlight and sidewalk installation.
 - c. Signal modification at Great Mall Parkway and Thompson Street.
43. **Sight Distance:** The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
44. **Public Improvements:** All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
45. **Solid Waste:** Prior to occupancy permit issuance, developer shall construct one or more trash enclosures to accommodate the required number of bins needed to serve this development. The proposed enclosure shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. City review/approval is required prior to construction of the enclosure. (E)
46. **Solid Waste:** Applicant/property owner shall be responsible for the trash collection and recycling services account. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services: (E)

- a. Maintain an adequate level of service for trash collection. Trash service may need to be upgraded to include the "C-bin" to contain any possible oil waste.
- b. Maintain an adequate level of recycling collection.

After the start of business, the applicant shall contact BFI commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the **applicant** shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264.

47. **Solid Waste:** Per Chapter 200, Title V of Milpitas Municipal Code (Ord. No. 48.7) solid waste enclosures shall be designed to limit the accidental discharge of any material to the storm drain system. The storm drain inlets shall be located away from the trash enclosures (a minimum of 25 feet). This is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit. (E)
48. **Encroachment Permit:** Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
49. **Utilities:** If the existing services (water, sewer and storm) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)
50. **Utilities:** The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division: (E)
 - a. Storm water connection fee of **\$347,148** based on 16.1 acres @ \$21,562 per acre. The water, sewer and treatment plant fee will be calculated at the time building plan check submittal.
 - b. Water Service Agreement(s) for water meter(s) and detector check(s).
 - c. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.
 - d. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s).
51. **Landscaping:** In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new and/or rehabilitated landscaping 2500 square feet or larger the developer shall:
 - a. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
 - b. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. (E)

- 52. Landscape Irrigation:** In accordance with Chapter 5, Title VIII (Ord. No. 238) and Chapter 6, Title VIII (Ord. No. 240) of Milpitas Municipal Code, the developer shall: (E)
- Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 2500 square feet along the future alignment).
 - Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.
 - Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas.
- 53. Water:** In accordance with Milpitas Municipal Code VIII-6-3, the developer is required to incorporate a re-circulated water system in the design of the proposed vehicle washing area. (E)
- 54. Stormwater:** The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the applicant, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E, C.3 Standard Condition No. 3)
- 55. Stormwater:** The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Industries are required to make an evaluation of their specific site activities and determine their permit requirements. If a permit is required, industries must prepare the following documents:
- File a Notice of Intent (NOI) prior to building permit issuance.
 - Prepare and submit a Storm Water Pollution Prevention Plan with the NOI.
 - Prepare a Monitoring Plan prior to operation.
- If you have questions about your specific requirements contact the RWQCB at (1-800) 794-2482. For general information contact the City of Milpitas at (408) 586-3329. (E)
- 56. Outside Agencies:** It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast, RWQCB, and City of Milpitas Engineering Division. Copies of

approvals or permits from other agencies must be submitted to the City of Milpitas Engineering Division. (E)

- 57. Wastewater:** If necessary, developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 942-3233. (E)
- 58. Utilities:** The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the developer is encouraged to design and install a redundant water service system. (E)
- 59. Fees:** Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to waste water treatment plant fee, sewer, water and storm connection fees, and plan check and inspection deposit. (E)
- 60. Utilities:** The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
- 61. PG&E:** Prior to grading permit issuance, the developer shall submit plans to PG & E for review and approval. (E)
- 62. Engineering Exhibit:** At the time of building plan check submittal, the developer shall incorporated the changes shown on Engineering Services Exhibit "S"(dated 1/31/2006) in the design plans and submit five sets of civil engineering drawings showing all proposed utilities to the Land Development Engineer for plan check. (E)

Acronyms

ADA	Americans with Disabilities Act
BMP	Best Management Practices
CDFG	California Department of Fish and Game
DEIR	Draft Environmental Impact Report for the Elmwood Residential and Commercial Development Project
E	Engineering
EIR	Environmental Impact Report for the Elmwood Residential and Commercial Development Project
FEIR	Final Environmental Impact Report for the Elmwood Residential and Commercial Development Project
MM	Mitigation Measure from the Final Environmental Impact Report for the Elmwood Residential and Commercial Development Project
NPDES	National Pollutant Discharge Elimination System
P	Planning
SWPPP	Stormwater Pollution Protection Plan

2.

USE PERMIT NO.
UP2006-1 AND "S" ZONE
NO. SZ2006-1

Cindy Maxwell, Project Planner, presented a request to construct and operate an auto dealership (Piercey Toyota) on ten acres at 950 Thompson Court, northeast quadrant of Great Mall Parkway and I-880, and recommend approval with conditions to City Council.

Commissioner Tabladillo arrived at 7:28 p.m.

Commissioner Mandal asked if Piercey Toyota is located in San Jose on 1st street and Ms. Maxwell said yes.

Commissioner Mandal asked if the architect has taken advantage of any solar power to support their energy needs and the architect said no.

Chair Williams noted that the project area is next to a wasteland and asked what would be the elevation of the parking lot. Ms. Maxwell said the applicant is working closely with City engineers to meet design requirements taken from a Hydrology Study that resulted from an environmental impact report. The requirements will not only affect the parking lot but the elevation of the building as well.

Chair Williams is concerned about Elmwood being right next door and asked if there will be any screening. Ms. Maxwell pointed out that there will be street trees on both side of Thompson Court and the street will improve dramatically.

Mr. Williams added that Thompson Court is part of the improvement project from KB homes. There will be Sycamore trees along Thompson Court, however there will be no screening wall. He recalled that as a condition of approval for the residential portion of the Elmwood project, the new street between Thompson and Abel called Machado, there is an 18 foot screen wall to block Elmwood from the residential, however on this portion, it will only be street trees and landscaping.

Commissioner Tabladillo asked if the storm water control plan is similar to Pacific Commons in terms of the water collection of the storm waters. Mr. Williams said that this project needs to meet C.3 requirements and their devices such as a bio swale, drainage plan and filtration devices are all compliant with C.3 provisions. The project is similar to that of Pacific Commons because they will have an on site bio swale, especially along the western portion of the project, closer to I-880.

Commissioner Tabladillo inquired about the wetland area and Mr. Williams explained that it is a designated wetland and this project is prohibited from encroaching into the wetland area.

Commissioner Tabladillo asked who is responsible for striping the bike lines. **Mehdi Khaila, Principal Civil Engineer**, said that he is not sure if there will be bike lanes or not, and if there is, KB Homes would be responsible for the striping.

Commissioner Tabladillo had a question regarding condition no. 19f that reads below and suggested that staff put the phone number online:

19f. Prior to issuance of a building permit, designate a noise disturbance coordinator who will be responsible for responding to any local complaints about construction noise. During construction, the coordinator will determine the cause of the noise complaints and institute reasonable measures to correct the problem. Maintain during all construction a conspicuously posted telephone number for the public to call the coordinator at the construction site.

Mr. Williams agreed to put the phone number on the City's website.

Chair Williams invited the applicant to come forward.

APPROVED
February 8, 2006

Kai Giffin, Piercey Toyota Project Manager, pointed out that this will be the largest Toyota dealership in the world and they are very happy to be coming to Milpitas. Currently Toyota is the 12th highest in the world because of fleet sales and car rentals and they would like to grow to the 6th highest. He felt that this location would be the magnet for the other two parcels.

Commissioner Mandal asked if Piercey would be keeping their 1st street dealership. Mr. Giffin said Piercey is exploring other options because initially San Jose wanted them out, however now their vision has changed. Piercey does not want to give up the lease there however they will be selling Honda's and Acura's, not Toyota's.

Chair Williams asked if Piercey has any plans to have illuminated graphic signs. Mr. Giffin said that he would be thrilled if the City would allow Piercey to display such a sign however he needs to work with staff to see what types of signs are allowed.

Chair Williams felt that staff needs to work with Piercey Toyota to develop a sign program.

Commissioner Mandal reiterated what the Chair was saying about being proactive and is glad that Piercey is very proud of their product and that they want to have a good partnership with the City.

Chair Williams opened the public hearing.

There were no speakers from the audience.

Close the public hearing

Motion to close the public hearing.

M/S: Mandal/Galang

AYES: 7

NOES: 0

Commissioner Tabladillo reiterated that she wants to make sure as this project moves forward it will little impact to surrounding neighborhoods and if neighbors do have complaints, they can easily access the information on the web.

Regarding Condition No. 9 that reads below, Commissioner Ciardella suggested adding a special moisture sensor condition that shuts the sprinklers off if it is raining.

9. *Landscaping: Prior to issuance of building permit, plans shall show that all planter areas have an automatic, self-watering system installed. All planter areas shall be serviced by a sprinkler head or drip system. (P)*

The applicant concurred with that condition.

Motion to recommend to Council to approve Use Permit No. UP2006-1 and "S" ZONE NO. SZ2006-1 with all of staff's special conditions and findings in the staff report as well as modified condition. No. 9.

M/S: Azevedo/Tabladillo

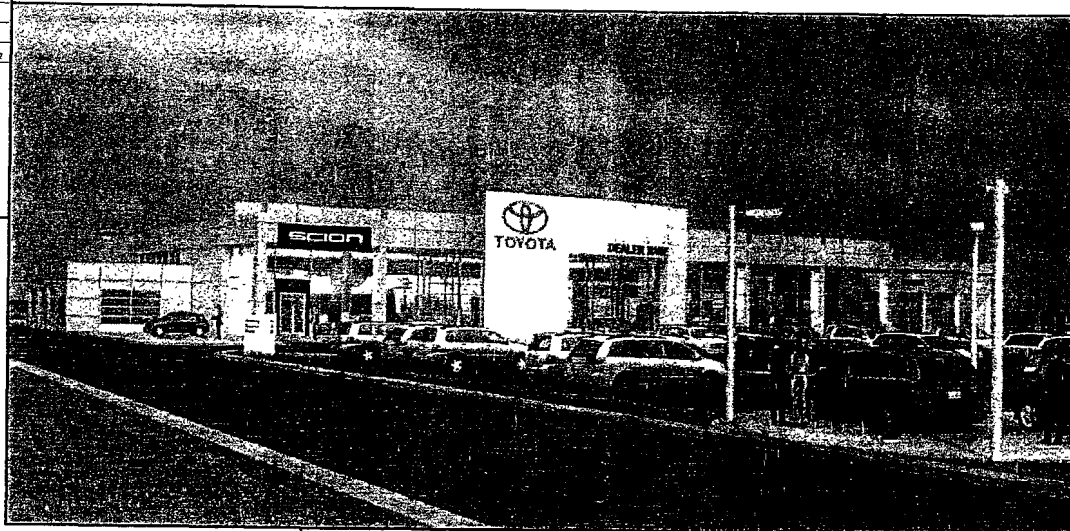
AYES: 7

NOES: 0

ARCHITECT	OWNER
RHL DESIGN GROUP 1137 N. MAGNOLIA BLVD PETALUMA CA 94954 707-785-1660 JONNY REINACE	MILPITAS ALTO PROPERTIES 12606 BLANCH BLVD WESTHAMSTER CA. 92683 714-896-9377 TOM CHADWELL ORLANDO RIVERA
STRUCTURAL	CONTRACTOR
HOBBS&H-LEWIS, INC 516 NEW MOUNTAIN ST Suite1714 SAN FRANCISCO CA 94105 415-781-8920 ANTHONY LEE	SAN JOSE CONSTRUCTION 1210 COLUMBIA AVENUE SANTA CLARA CA 95050 408-588-0778 NICK BRIDSON

PLANNING DEPT FILE NO	-
PROJECT NAME	PIERCEY TOWNSHIP
PROJECT ADDRESS	THOMPSON CT MERTITAS, CA
LEASE HOLDER	MERTITAS AUTO PROPERTIES
PROPERTY OWNER	COUNTY OF SANTA CLARA
OWNERS ADDRESS	70 WEST HEDDING ST., 1100 FLOOR SAN JOSE, CA 95110
ZONING	C2-S GENERAL COMMERCIAL
PARCEL NUMBER	APN # XXX XXX XXX
OCCUPANT GROUP	M S-2, S-3
CONSTRUCTION TYPE	TYPE V SPRINKLERED
SITE AREA	435 583 SF / 9.99 ACRE
PAVING REQUIREMENTS	SEE SITE PLAN PAVING ANALYSIS SHEET NO 2
APPLICABLE CODES	2001 CALIFORNIA BUILDING CODE 2001 CALIFORNIA MECHANICAL CODE 2001 CALIFORNIA ELECTRICAL CODE

MILPITAS, CALIFORNIA



AERIAL PHOTO / LOCATION MAP



- GENERAL DRAWINGS
 - 1 COVER SHEET
- SITE DRAWINGS
 - 2 SITE PLAN / LAND USE
 - C1 CONCEPTUAL GRADING PLAN (DEFERRED)
 - L1 PRELIMINARY LANDSCAPE PLAN
- ARCHITECTURAL DRAWINGS
 - 3 FLOOR PLAN
 - 4 BUILDING ELEVATIONS
 - 5 RENDERED ELEVATIONS

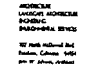
DEVELOPMENT OF A TOTALIZED NEW CAR SALES AND SERVICE FACILITY
IN MELPITAS, CA

THE PROJECT CONSISTS OF THE CONSTRUCTION OF A NEW
AUTOMOBILE DEALERSHIP OF APPROXIMATELY 70,000 SQ FT ON 10
ACRES ADJACENT TO INTERSTATE 1-880 AT GREATMALL PARKWAY.

THE BUILDING IS A SINGLE STORY STRUCTURE WITH A MEZZANINE
LEVEL FOR PARTS STORAGE ABOVE AN OPEN DRIVE THRU SERVICE
RECEPTION AREA. THE BUILDING WOULD BE SITED ON A
ELEVATED PROTECTED EARTHWORK TO ALLOW FOR FLOOD
AND DRAINAGE ON THE NORTHERN & SOUTHERN EXPOSURES.

THE SITE WILL BE DEVELOPED TO PROVIDE SURFACE PARKING AREAS
FOR NEW AND PRE-OWNED AUTOMOBILE DISPLAY AND SERVICE
STAGING SPACES ALONG WITH AN EMPLOYEE LOT.


THE SITE WILL BE CONTOURED AND GRADED TO CONFORM TO THE
RECOMMENDATIONS OF THE 100 YEAR FLOODPLAIN FLOODPLAIN
MANAGEMENT REPORT FOR THE 100 YEAR FLOOD EVENT.



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Andrew G. Johnson, Co. President, Co.
Director, Inc. Johnson, Inc.

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PIERCEY TOYOTA
MILPITAS, CALIFORNIA

THUR.	DATE	REVISION	BY
	11/24/00	PLANNING RES. CTR. PLAC-KASER	JAC
		UPP-054	JAC

ROLE REVIEW	PATIAL	DATE
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COVER SHEET

WORK BY	REPORT DATE
APPROVED BY	AT THE TIME OF THE
CITY	STATE
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DESIGN GROUP INC.

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LANDSCAPE ARCHITECTURE
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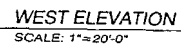
PIERCEY TOYOTA
MILPITAS, CALIFORNIA

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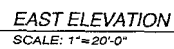
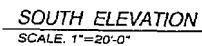
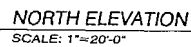
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BUILD PERMITS		
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PRELIMINARY
GRADING PLAN

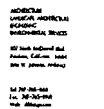
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FREEWAY



MAIN ENTRANCE



PIERCE
AUTOMOTIVE GROUP



PIERCEY TOYOTA
MILPITAS, CALIFORNIA

[illegible]

Rev. REVIEW	INITIAL	DATE
PLANNED/CLIP CLIENT SUBMITTAL BIDD PERMITS		
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PERMIT REV'S		
GENERAL BID		
ADDITIONAL		
CONSTRUCTION		
DO NOT USE OR BUILD FOR CONSTRUCTION UNLESS INDICATED		
<p>BUILDING ELEVATIONS</p>		

APPROVED BY DATE COMMENTS	RECD. DATE COMMENTS
APPROVED BY DATE COMMENTS	RECD. DATE COMMENTS

